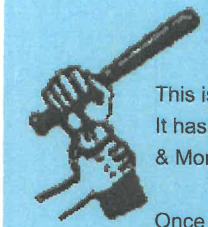
More copies of this booklet
available from No Comment
c/o BM Haven, London WC1N 3XX
or download from **www.ldmg.org.uk**

@nti-copyright: photocopy and distribute

UPDATED AND
REPRINTED
4th EDITION
FREE

NO COMMENT

the defendant's guide to arrest



This is the fourth edition of No Comment.
It has been updated and reprinted by the Legal Defence & Monitoring Group (LDMG).

Once again it was funded by the proceeds of a damages award from the Metropolitan Police, who were sued for false arrest and imprisonment and breach of human rights.

We are sure that they will be pleased to know that their funds are being invested in a public information campaign as vital and deserving as this.

If you obtain damages from the police please consider sending us some of the money so we can do another reprint.

Further copies can be obtained free by sending a 2nd class stamped SAE to
No Comment c/o BM Haven, London WC1N 3XX
or you can download copies from **www.ldmg.org.uk**

Getting arrested is no joke

It's a serious business.

All convictions add up: *eg.* if you're done three times for shoplifting, you stand a good chance of getting sent down.

If there's a chance of you getting nicked, get your act together: know what to do in case you're arrested.

Unless you enjoy cells, courtrooms, prisons, you owe it to yourself to wise up

WHEN YOU HAVE BEEN ARRESTED

You will be asked to give the police your **name** and **address** and your **date of birth** - you don't have to give any details, but it may delay your release. They also have the right to take your fingerprints, photo and non-intimate body samples (a saliva swab, to record your DNA). These will be kept on file, even if you are not charged, but if you later sue the police you should try to get them destroyed.

The **Criminal Justice and Public Order Act 1994**, removed the traditional 'Right to Silence'. **However**, all this means is that the police/ prosecution can point to your refusal to speak to them, when the case comes to court, and the court ***may*** take this as evidence of your guilt. **The police cannot force you to speak or make a statement,**

whatever they may say to you in the station. Refusing to speak cannot be used to convict you by itself. We reckon the best policy **if you want to get off** is to **remain silent.** The best place to work out a good defence is afterwards, with your solicitor or witnesses, not under pressure in the hands of the cops. If your refusal to speak comes up in court, we think the best defence is to refuse to speak until your solicitor gets there then get them to agree to your position. You can then say you acted on legal advice.

If you are arrested under the **Terrorism Act 2000**, the police can keep you in custody for longer. They have already used this against protestors and others to intimidate them. Remember being arrested is not the same as being charged. **Keeping silent is still the best thing to do in police custody.**

REMEMBER - ALL CHARGES ADD UP

POLICE BAIL

It is common for the police to release people on bail, as the police are not allowed to charge people with anything except minor offences without the agreement of the Crown Prosecution Service (CPS). Often they will attach condiions to the bail, such as not going into certain areas or not attending protests.

Whilst you are on police bail they try to find evidence against you and send a file to the CPS, who then decide what the appropriate charge is.

Aside from laziness, incompetence and inefficiency both cops and CPS have positive reasons to slow the process down. The cops like keeping people on bail because it's a punishment in itself, especially if there are conditions attached, while the CPS get paid however long it takes. This leads to people being on bail for months or even years with disruption to their lives and ongoing psychological pressures.

The strange thing is that breaching police bail conditions (unlike bail granted by a judge) is not a criminal offence!

However failing to surrender to bail (turning up on the date given on your bail sheet whether to a court or to return to a police station) is a crime (Section 6 Bail Act 1976). If you do break police bail conditions you can be arrested BUT, and here's the good bit, they have to bring you before a court within 24 hours of arrest (not including Sundays, Christmas Day or Good Friday). The Courts can only deal with people who've been charged with an offence. And that is what the cops don't want to do, because if you're charged you have to be told what you're suspected of doing and what the evidence is against you. It is almost unheard of for people to be remanded just for breaking police bail conditions.

CAUTIONS

The police may offer you a caution saying that this is instead of charging you. They will reassure you that this is not a criminal offence. Whilst this is technically true a caution will remain on your record and may make it hard to get a job etc. in the future. The cops offer cautions to bolster their figures, when they don't have enough evidence to charge anyone.

SOCIAL NETWORKING SITES (FACEBOOK ETC.)

If you are arrested the police will trawl the net and use information they find on social networking sites etc. So if you boast about things or post pictures this is doing the cops job for them. They will also be able to see who your online friends are.

Q: What happens when I get arrested?

When you are arrested, you will usually be handcuffed, put in a van and taken to a police station. You will be asked your name, address and date of birth. You should be told the reason for your arrest - remember what is said, it may be useful later. Your personal belongings will be taken from you. These are listed on the custody record and usually you will be asked to sign to say that the list is correct. You do not have to sign, but if you do you should sign immediately below the last line, so that the cops can't add something incriminating to the list. You should also refuse to sign for something which isn't yours, or which could be incriminating. You will also be asked if you want a copy of PACE (the Police and Criminal Evidence Act codes of practice) and to sign to say you have refused. We suggest you take a copy - it's the only thing you'll get to read and you might as well gen up on the rules the cops are supposed to follow. Your fingerprints, photo and saliva swab will be taken, then you will be placed in a cell until the police are ready to deal with you.
DO NOT PANIC!

Q: What if I am under 18?

There has to be an 'appropriate adult' present for the interview. The cops will always want this to be your mum or dad, but you might want to give the name of an older

brother or sister or other relative or adult friend (though the cops may not accept a friend). If you don't have anyone, they will get a social worker - this might cause you more problems afterwards.

Q: When can I contact a solicitor?

You should be able to ring a solicitor as soon as you're arrested, once at the police station it is one of the first things you should do, for two reasons:

1. To have someone know where you are.
2. To show the cops **you** are not going to be a soft target - they may back off a bit.

It is advisable to avoid using the duty solicitor as they may be crap or hand in glove with the cops. It's worth finding the number of a good solicitor in your area and memorising it. The police are wary of decent solicitors. Any good solicitor will provide free advice at the police station. Also, avoid telling your solicitor much about what happened. This can be sorted out later. For the time being, tell them you are refusing to speak. Your solicitor can come into the police station while the police interview you: you should refuse to be interviewed unless your solicitor is present.

Q: What is an interview?

An interview is the police questioning you about the offences they want to charge you with. The interview

will take place in an interview room in the police station and should be taped.

AN INTERVIEW IS ONLY OF BENEFIT TO THE POLICE. Remember they want to prosecute you for whatever charge they can stick on you.

AN INTERVIEW IS A NO WIN SITUATION. For your benefit, the only thing to be said in an interview is **"NO COMMENT"**.

REMEMBER: They can't legally force you to speak. Beware of attempts to interview you in the cop van or cell etc. as all interviews are nowadays recorded. The cops may try to pretend you confessed before the taped interview. Again say **"NO COMMENT"**.

Q: Will the police interview me straight away?
Not necessarily. They may let you out without charging you on police bail with a date to return to the police station. In the meantime they will check CCTV and try to get evidence. When you return they may interview you.

Q: Why do the police want me to answer questions?
If the police think they have enough evidence against you they will not need to interview you. For example, in most public order arrests they rely on witness

statements from 1 or 2 cops or bystanders, you won't even be interviewed. Also if they have arrested you and other people, they will try to get you to implicate the others. The police want to convict as many people as possible because:

1. It makes it look like they're doing a good job at solving crime.The clear-up rate is very important to the cops; they have to be seen to be doing their job. The more crimes they get convictions for, the better it looks for them.

2. Police officers want promotion, to climb up the ladder of hierarchy. Coppers get promotion through the number of crimes they 'solve'. No copper wants to be a bobby all their life.

A 'solved crime' is a conviction against somebody. You only have to look at such cases as the Birmingham 6 to understand how far the police will go to get a conviction. Fitting people up to boost the 'clear-up rate', and at the same time removing people cops don't like, is wide spread in **all** police forces.

Q: So if the police want to interview me, it shows I could be in a good position?
Yes - they may not have enough evidence, and hope you'll implicate yourself or other people.

will take place in an interview room in the police station and should be taped.

AN INTERVIEW IS ONLY OF BENEFIT TO THE POLICE. Remember they want to prosecute you for whatever charge they can stick on you.

AN INTERVIEW IS A NO WIN SITUATION. For your benefit, the only thing to be said in an interview is **"NO COMMENT"**.

REMEMBER: They can't legally force you to speak. Beware of attempts to interview you in the cop van or cell etc. as all interviews are nowadays recorded. The cops may try to pretend you confessed before the taped interview. Again say **"NO COMMENT"**.

Q: Will the police interview me straight away?
Not necessarily. They may let you out without charging you on police bail with a date to return to the police station. In the meantime they will check CCTV and try to get evidence. When you return they may interview you.

Q: Why do the police want me to answer questions?
If the police think they have enough evidence against you they will not need to interview you. For example, in most public order arrests they rely on witness

statements from 1 or 2 cops or bystanders, you won't even be interviewed. Also if they have arrested you and other people, they will try to get you to implicate the others. The police want to convict as many people as possible because:

1. It makes it look like they're doing a good job at solving crime.The clear-up rate is very important to the cops; they have to be seen to be doing their job. The more crimes they get convictions for, the better it looks for them.

2. Police officers want promotion, to climb up the ladder of hierarchy. Coppers get promotion through the number of crimes they 'solve'. No copper wants to be a bobby all their life.

A 'solved crime' is a conviction against somebody. You only have to look at such cases as the Birmingham 6 to understand how far the police will go to get a conviction. Fitting people up to boost the 'clear-up rate', and at the same time removing people cops don't like, is wide spread in **all** police forces.

Q: So if the police want to interview me, it shows I could be in a good position?
Yes - they may not have enough evidence, and hope you'll implicate yourself or other people.

Q: And the way to stay in that position is to refuse to be drawn into a conversation and answer "NO COMMENT" to any questions?
Exactly.

Q: But what if the evidence looks like they have got something on me? Wouldn't it be best to explain away the circumstances I was arrested in, so they'll let me go?
The only evidence that matters is the evidence presented in court to the Magistrate or jury. The only place to explain everything is in court; if they've decided to keep you in, no amount of explaining will get you out. If the police have enough evidence, anything you say can only add to this evidence against you.

When the cops interview someone, they do all they can to confuse and intimidate you. The questions may not be related to the crime. Their aim is to soften you up, get you chatting. Don't answer a few small talk questions and then clam up when they ask you a question about the crime. It looks worse in court.

To prosecute you, the police must present their evidence to the Crown Prosecution Service. A copy of the evidence is sent to your solicitor. The evidence usually rests on very small points: this is why it's

important not to give anything away in custody. They may say your refusal to speak will be used against you in court, but the best place to work out what you want to say is later with your solicitor. It they don't have enough evidence the case will be thrown out or never even get to court. This is why they want you to speak. They need all the evidence they can get. One word could cause you a lot of trouble.

Q: So I've got to keep my mouth shut. What tricks can I expect the police to pull in order to make me talk?
The police try to get people to talk in many devious ways. The following shows some pretty common examples, but remember they may try some other line on you.

These are the things that often catch people out. DON'T GET CAUGHT OUT.

1. *"Come on now, we know it's you, your mate's in the next cell and he's told us the whole story."*
If they've got the story, why do they need your confession? Playing co-accused off against each other is a common trick, as you've no way of checking what other people are saying. If you are up to something dodgy with other people, work out a story and stick to it. Don't believe it if they say your co-accused has confessed.

2. *"We know it's not you, but we know you know who's done it. Come on Jane, don't be silly, tell us who did it"*
The cops will use your first name to try and seem as though they're your friends. If you are young they will act in a fatherly/motherly way, etc.

3. *"As soon as we find out what happened you can go"*
Fat chance!

4. *"Look you little bastard, don't fuck us about. We've dealt with some characters; a little runt like you is nothing to us. We know you did it you little shit and you're going to tell us."*
They're trying to get at you.

5. *"What's a nice kid like you doing messed up in a thing like this?"*
They're still trying to get at you.

6. *"We'll keep you in 'til you tell us"*
They have to put you before the magistrate or release you within 36 hours (or 14 days if arrested under the Terrorism Act). Only a magistrate can order you to be held without charge for any longer.

7. *"There is no right to silence anymore. If you don't answer questions the judge will know you're guilty."*
Refusing to speak cannot be used to convict you by itself. If they had enough evidence they wouldn't be interviewing you.

8. *"You'll be charged with something far more serious if you don't start answering our questions, sonny. You're for the high jump. You're not going to see the light of day for a long time. Start answering our questions 'cos we're getting sick of you."*
Mental intimidation. They're unlikely to charge you with a serious charge that won't stick in court. Don't panic.

9. *"You've been nicked under the Terrorism Act, so you've got no rights."*
More mental intimidation and all the more reason to say **"NO COMMENT"**.

10. *"My niece is a bit of a rebel."*
Yeah right.

11. *"If someone's granny gets mugged tonight it'll be your fault. Stop wasting our time by not talking."*
They're trying to make you feel guilty. Don't fall for it, you didn't *ask* to be arrested.

12. *PC Nice: "Hiya, what's it all about then? Sergeant Smith says you're in a bit of trouble. He's a bit wound up with you. You tell me what happened and Smith won't bother you. He's not the best of our officers, he loses his rag every now and again. So what happened?"*
PC Nice is as devious as PC Nasty is. He or she will offer you a cuppa, or a blanket. It's the softly-softly approach. It's bollocks. **"NO COMMENT".**

13. *"We've been here for half an hour now and you've not said a fucking word.... Look you little cunt some of the CID boys will be down in a minute. They'll have you talking in no time. Talk now or I'll bring them down."*
Keep at it, they're getting desperate. They're about to give up. You've a lot to lose by speaking.

14. *"Your girlfriend's outside. Do you want us to arrest her? We'll soon have her gear off for a strip search. I bet she'll tell us. You're making all this happen by being such a prick. Now talk"*
They pick on your weak spots, family, friends, etc. Cops do sometimes victimise prisoners' families, but mostly they are bluffing.

15. *"You're a fuckin' loony, you! Who'd want you for a mother, you daft bitch? Start talking or your kids are going into care."*
Give your solicitor details of a friend or relative who can look after your kids. The cops don't have the power to take them into care.

16. *"Look, we've tried to contact your solicitor, but we can't get hold of them. It's going to drag on for ages this way. Why don't we get this over with so you can go home."*
Never accept an interview without your solicitor present, a bit more time now may save years later!

17. *"You're obviously no dummy. I'll tell you what we'll do a deal. You admit to one of the charges, and we'll drop the other two. We'll recommend to the judge that you get a non-custodial sentence, because you've co-operated. How does that sound?"*
They're trying to get you to do a deal. There are no deals to be made with the police. Much as they'd like to, the police don't control the sentence you get.

18. *"We've been round to the address you gave us and the people there say they don't know you. We've checked on the JobCentre Plus computer and there's no sign of you. Now come on, tell us who you are. Tell us*

who you are or you've had it. ”

If you're planning to give an address make sure everyone there knows the name you are using and that they are reliable. The cops usually check that you live somewhere by going round to that address.

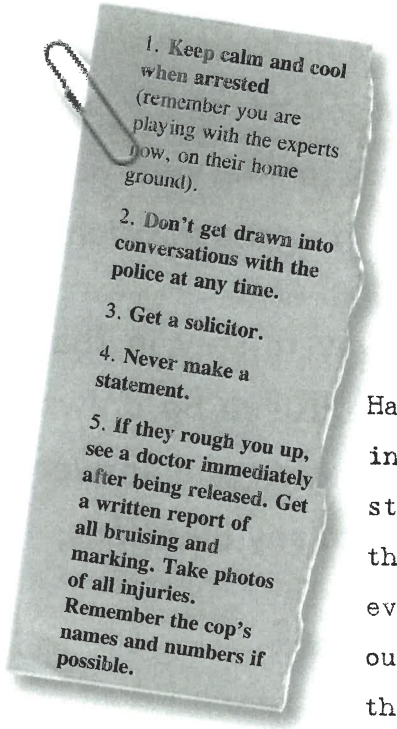
19. “*Wasting police time is a serious offence.* ”

You can't be charged for wasting police time for not answering questions.

The cops may rough you up, or use violence to get a confession (true or false) out of you. There are many examples of people being fitted up and physically assaulted until they admitted to things they hadn't done. It's your decision to speak rather than face serious injury. Just remember, what you say could get you and others sent down for a very long time. However, don't rely on retracting a confession in court - it's hard to back down once you've said something.

In the police station the cops rely on peoples' naivety. If you are aware of the tricks they play, the chances are they'll give up on you. In these examples we have tried to show how they'll needle you to into speaking. That's why you have to know what to do when you're arrested. *The hassle in the cop shop can be bad, but if you are on the ball, you can get off. You have to be prepared.*

WE'VE HAD A LOT OF EXPERIENCE OF THE POLICE AND WE SIMPLY SAY:



1. **Keep calm and cool when arrested** (remember you are playing with the experts now, on their home ground).
2. **Don't get drawn into conversations with the police at any time.**
3. **Get a solicitor.**
4. **Never make a statement.**
5. **If they rough you up, see a doctor immediately after being released. Get a written report of all bruising and marking. Take photos of all injuries. Remember the cop's names and numbers if possible.**

Having said nothing in the police station, you can then look at the evidence and work out your side of the story.

THIS IS HOW YOU WILL GET OFF.

An interview is a no win situation.
You are not obliged to speak.
If the police want to interview you,
it shows you're in a good position...

And the only way to stay in that position is to refuse to be drawn into any conversation and answer "NO COMMENT" to any questions.

Q: What can I do if one of my friends or family has been arrested?
If someone you know is arrested, there's a lot you can do to help him or her from outside.

1. If you know what name they are using ring the police station (however if you're not sure don't give their real name away). Ask whether they are being held there and on what charges. However remember that the cops may not tell you the truth.

2. Remove anything from the arrested person's house that the police may find interesting:
computers, cameras, mobile phones / SIM cards, address books, letters, false ID etc. in case the police raid the place.

3. Take food, essential medicines etc. into the police station for your arrested friend.

But don't go in to enquire at the police station to ask about a prisoner if you run the risk of arrest yourself. You'll only get arrested. **DON'T GO ALONE.**

The police have been known to lay off a prisoner if they have visible support from outside. It's solidarity that keeps prisoners in good spirits.

NOTES

CAUGHT THEN COURT:
The Defendants Guide to the
'Criminal Justice System'.
Check the LDMG website for details
www.ldmg.org.uk